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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,971	09/25/2000	Bryan Hulstedt		1104

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EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT PAPER NUMBER

3724

DATE MAILED: 05/21/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/667,971

Applicant(s)

HULSTEDT, BRYAN

Examiner

Omar Flores-Sánchez

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2-6 and 9-12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7,8 and 13-16 is/are allowed.
- 6) ☒ Claim(s) 1 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment received on 2/18/04.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alcok et al. in view of Hasler et al.

Alcok discloses (Fig. 1-9) the invention including means for advancing the rod stock (23 and 32), a first axis (Fig. 1), a closed knife (51-52) having an edge, a gage surface 115 and second mechanical abutment means 115a. Alcok doesn't show an air supply having a discharge port. However, Hasler teaches the use of an air supply having a discharge port 13 for the purpose of removing the workpiece out of the cutting machine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Alcok's device by providing the air supply having a discharge port as taught by Hasler in order to obtain a device for quickly removing the workpiece out of the cutting machine.

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4. Claims 1, 17-19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alcok et al. in view of Bezama et al. (6,276,246).

Alcok discloses (Fig. 1-9) the invention including means for advancing the rod stock (23 and 32), a first axis (Fig. 1), a closed knife (51-52) having an edge, a gage surface 115 and second mechanical abutment means 115a. Alcok doesn't show an air supply having a discharge port. However, Bezama teaches the use of an air supply having a discharge port (17 and 82) for the purpose of removing the workpiece out of the cutting machine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Alcok's device by providing the air supply having a discharge port as taught by Bezama in order to obtain a device for quickly removing the workpiece out of the cutting machine.

Allowable Subject Matter

5. Claims 7-8 and 13-16 are allowed.

Response to Arguments

6. Applicant's arguments have been fully considered but they are not persuasive. In response to applicant's argument that "Hasler has nothing to do with solving the problems of jamming and lodging", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Doble, Iknayan et al. and Bodycomb are cited to show related device.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

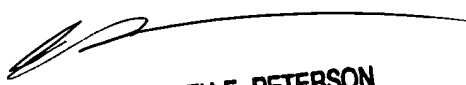
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 703-308-0167. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ofs
May 16, 2004



KENNETH E. PETERSON
PRIMARY EXAMINER